P61

Previous references.

File No. 15

Serial Nos. 1-10

190

( )

Later references.

Conf. coll. no 213 - Vol II.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Preserve

Part B. for

SUBJECT.

Papers relating to Mr. Garudachar's Case.

G. R. S. 11]

191576

GENERAL AND REVENUE SECRETARIAT.

(Police)

NOTES.

File No. 165-15

FILE HEADING.

Enquiry about the arrest of Mr. Ganbachu, Advocate, Shimoga.

From

No.	Dated	Received

Diary No.	Enclos.	Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

NOTES—First Sheet.

2567

W. D. 791—GPB—2,000—2-10-15

Police File no 165 of 1915-16

REPLY.

(To be written on this margin.)

Office of the Dewan of Mysore.

NOTE.

Dated.....22nd March.....1916 .

Sl-no. 1

Telegram dated the 22nd March 1916 from Mr. T.G.Narayana Iyengar, B.A., B.L., Advocate, Shimoga, regarding the arrest of Mr. Garuda Char, Advocate of the same place.

Sl-no. 2

Tel D/22.3.16 from Mr. N. reporting that the [illegible] granted bail

Forwarded to the Secretary, General Department, for favour of obtaining a report from the Deputy Commissioner as to the facts of the complaint.

23.3.16. [illegible]

The Secretary,

General Department.

URGENT

A.S to do the need ful: Reply [illegible] [illegible] in a w cell

[illegible]

23,3

Draft

[illegible]

Draft sub'd.

[illegible]

23-3-16.

[illegible]

Issue

[illegible]

The following telegram reply was sent to Mr. N. Iyengar by the Dewan: —

P.T.O.

2605-2567

G. R. S. 12]

General and Revenue Secretariat.	Police File No. 165 of 1915-16

Serial No.

3 To Mr. Narayana Iyengar. Tel Dy 22.3.16

States that enquiries are being made and that the D.C. may be, if approached will be fair.

Sec. A

4 To The Dy. Comr, Shimoga Dt. no. J3795 Dy 23.3.16.

Calls for a report as to the facts of the case within 4 days.

Subd. No reply has yet been received.

B.G. 28.3.16.

NL

Issue a reminder today

Ex 28/3

In the meanwhile a communication from Mr. Gandachar has been received.

5 From Mr. B. Gandachar Dy 25.3.16

Narrates the facts of the case prays for enquiry.

Subd. with a draft reminder and a clean copy of the draft D.O. put up by the Secy.

B.G. 28.3.16.

NL

Issue

Ex 28/3

7-30 pm

Secy

NOTE—Contn. sheet.

2605

G. R. S. 12]

General and Revenue Secretariat.

Police File No. 165 of 1915-16

Serial No.

Reminder issued to D. C. Shimoga no. J 3889 D/ 28 3-16.

6 To Mr. Srikantiswara Aiyar. Do no J3890 D/ 28-3-16

Forwards the representation of Mr. Gamdachar and calls for a report within a week after personal enquiry on the spot.

The time fixed for the D.C.'s report has expired but no report has yet been received from him

Subd. for orders.

B.G. 1-4-16. RK

In the meanwhile the following reply has been received from the D.C. Shimoga.

7 From Mr. Mathan. Do. no. 293 D/ 30 3-16

States that there was no abuse of power, that the arrest was made in the quietest possible manner, that Mr Gamdachar was afforded a facility to see his friends and apply for bail and that a final report will be subd. in two or 3 days.

8 From Mr Mathan Do. no 298 D/ 2-4-16.

Submits a further report

~~The report on the result of the trial before the Magistrates may be awaited.~~

NOTE—Contn. sheet.

GPB—70,000—17-12-15

G. R. S. 12]

General and Revenue Secretariat. | Police File No. 165 of 1915-16

Serial No.

Submitted for information
S.
4/4

Second Member
Dewan

Except that the person concerned is an Advocate of some standing, there seems nothing to differentiate this case from that of any other person accused of receiving stolen property. From the report furnished, it is clear that the Police acted upon information implicating Mr Ganadachari; also that no indignity was offered to him; and that he was able to procure his release on bail with the least possible loss of time on application made to the District Magistrate. It is stated that there is available a certain amount of evidence tending to show that Mr Ganadachari knew when he received the money in question that it was part of the proceeds of the theft committed by Nanja; if that be so, then a charge must be laid against him before a Criminal Court, and it is for that Court to

NOTE—Contn. sheet

2649

G. R. S. 12]

General and Revenue Secretariat.

Police File No. 165 of 1915-16

Serial No.

decide on the adequacy or otherwise of the material placed before it on which to base a conviction. So far as the Govt. is concerned, I see no reason for further action at this stage. The Dewan's reply of the 22d March 1916 seems finally to dispose of the matter raised by the telegrams; if however deemed necessary, a further reply in continuation may be sent to the effect that "as a result of the enquiries made the Govt do not at present see reason to take specific action, especially as Mr Garudachar has already been able to obtain his release on bail."

The Dt Magte may be asked to report in due course the result of the criminal trial ~~if any~~ upon any charge that may be laid against Mr Garudachar.

5-4-16.
Mysore

The report referred to in the last para above may be called for

7.4.16.

(Seen by the Genl Secry)

Draft by 8/4

NOTE—Contn. sheet.

GPB—60,000—7-11-18

2649

G. R. S. 12]

General and Revenue Secretariat. | Police File No. 165 of 1915-16

Serial No.	
	Subd. with a draft D.O.
	B.G. 8.4.16.
	Draft already sent from C.S.
	See the sealed cover.
	8 8/4
9	TO Mr. Matthan. D.O. no. C.S. 76 D/ 7.4.16.

14/4

P.T.O.

NOTE—Contn. sheet.

GPB—70,000—17-12-15

SAN PA
5/437

The Karnataka dated 1-4-16.

Police high-handedness - An altogether sickening account of alleged Police high-handedness comes from Shimoga. Mr.B.Garudachar, a well-known citizen and advocate of more than 20 years standing, was arrested on the 22nd March under very unusual circumstances, on a charge of having received stolen rupees, and the gentleman it appears had to experience a vast amount of harassment before he could be released on bail. The wonder of it is that no definite charge-sheet has as yet been placed against him before any magistrate. The incident has very naturally caused a high and wide spread sensation and messages have been addressed to the Dewan Saheb. We are very much pleased to learn that the Inspector General of Police had the goodness to proceed to Shimoga immediately on hearing of the painful incident; and we feel sure he must have already taken departmental notice of the conduct of the officials responsible for the affair. We are not concerned here with the guiltiness or guiltlessness of Mr.Garudachar. All that we have properly to consider is whether the procedure adopted by the Police was not extraordinary, whether it had any semblance of reasonableness and whether they should have been so strikingly unkind in any case. Unless and until their own version of the case is placed before the public, the Police authorities of Shimoga cannot hope to escape the strongest disapprobation of all reasonable persons. And if the Police can ~~have~~ behave thus in a town like Shimoga and towards a gentleman of Mr.Garudachar's education and social status, what is the length to which they may not go ~~in~~ in an obscure place and in the case of a less fortunate person.

Forwarded

Por III

6/4

DAILY POST. TUESDAY EVENING. APRIL 18. 1916.

A Case Against an Advocate.

Yesterday, before Mr. Justice T. Paramasiva Iyer, Vacation Judge of the Chief Court of Mysore, Messrs M. C. Ranga Iyengar, R. B., of the Mysore Bar and K. Ramaswamy Iyengar of the Bangalore Bar (Advocates) on behalf of Mr. B. Garudachar, Advocate, Shimoga, presented an application for the transfer of the criminal proceedings now pending against Mr. Garudachar before Mr. C. Gopalachar, 1st class Magistrate of Shimoga, to the Court of any other Magistrate outside the District. The petition points out, among other grounds, that the District Magistrate and the District Superintendent of Police are keenly bent upon securing the conviction of the petitioner by the Subordinate Magistracy. The case against Mr. Garudachar, as alleged, is as follows:—On the 30th October, 1915, one Manja is said to have given Rs. 50 as fees to Mr. Garudachar, to prepare a petition to the District Magistrate of Shimoga and to appear and argue for him to free him from the molestation of the local Police. This amount is alleged to have been a part of the property stolen by Manja.

The learned Judge, after admitting the petition, called for the records from the Lower Court and the petition has been posted for hearing on the 26th instant.

E.A.N.6
Pd
574

J Mis 1460-15

Forwarded to Por III.

19.4.16
[illegible]

[illegible]
20/4

Pd
20/4

Subd. for perusal. The report called for from the I. G. P. has not yet been received nor the petition sent to him returned.

B.G.
20.4.16.
[illegible]

Further reports called for maybe awaited.

Es 20/4

Sus A

P.T.O.

G. R. S. 12]

General and Revenue Secretariat.

Police File No. 165 of 1915.

Serial No. 10

From The Registrar, Chief Court, no. 5071-37 8 Dt 1/3-5-16

Towards for information a copy of order in Criminal Petition no. 41 of 1915-16 on the file of the Chief Court directing that the case be transferred to the Dt. Sagte Kadur.

Subd. for perusal.

B.G. 5-5-16.

Es 5/5

416
9-5-16

Second Member

Seen. 10 5 16

Es 10/5

Sent

NOTE—Contn. sheet.

GPB—70,000—17-12-15

Confidential.

Jobe [illegible]

Camp Shimoga

30 March 1916

My dear Visvesvaraya,

After I had seen you on ~~Friday~~ last at the office, I rec'd a letter from Mr Sarudolkar, which is practically the same as the typed letter which he had sent you, & which I received here

for | Calling card as the they
so | [illegible] for O.K. as De
by | I have nothing together
by | I [illegible] [illegible] [illegible]
all | [illegible] [illegible] [illegible] [illegible]
ha | [illegible] [illegible] [illegible] Then
the | [illegible] [illegible] [illegible] [illegible]
then | of all [illegible] for people
com | & [illegible] [illegible] & [illegible]
befo | [illegible] [illegible] [illegible] A
& Com | [illegible].
com | [illegible] [illegible] [illegible] [illegible]

late [illegible] by
registered post, as Dr. &
I were seeking together
I left Bangalore Sunday
night & came here Monday
[illegible] & since then
have made close enquiries
of all classes of people
& Mr. Gandhi & other
advocates have also seen
me.
Mr. Macani was here

& Shave spoken thus also.
Shave [illegible] for & seen
all records, & as
far Shave been able
to gather, creation of
sensation has hot-
bed the object of
any loyal executive but
the unfortunate outcome
of sinus of [illegible],
& grave charges of
champing, chesting,

fabrication & against
some of the advocates, bought-
ing private parties (& not
by Police), who are
all endeavouring to
make everything appear
the result of Zid. —
Their private actions &
complaints are pending
before Comte —
On the merits of Mr. Sandiches
Complaint, the enquiry
complete & a report will

D.O. Correspondence

be subd. to Govt.
presently as soon as
copies of certain
records &c are col-
ready.

I am Ld & Ex to
Bangalore tomorrow mornr.
& should call on you
& explain the
whole matter to

[Confidential]

Bangalore,

6th April 1916.

My dear Viswanath,

In continuation of my letter dated the 30th ultimo regarding the complaint of Mr.D.Garudachar, Advocate, Shimoga, I send enclosed copy of Mr. Watt's D.O. (No.I) to me dated the 3rd instant, with a Memorandum (No.II) giving a lucid a count of the case. I also made very searching enquiries of all those concerned and found that nothing extraordinary had been done by the Police.

2. In the course of the investigation of a case of heavy burglary in the Thirthahalli taluk, wherein jewels and cash to the value of about R.5,000 had been lost, suspicion fell on one Palakad Nanja, a servant of the complainant who had absconded. His whereabouts were subsequently traced and he was arrested, when he not only made a clean breast of the theft, but also made a frank admission as to where all he had secreted the stolen jewels and some of the money, and to whom all he had given the rest of the cash, either for safe custody or for various other purposes. One of the statements made by him was that a sum of R.50 forming part of the stolen property had been given by him to Mr. D.Garudachar of Shimoga, to whom he had been directed by one of his clients for getting up a petition to the District Magistrate, for obtaining his release in case he was arrested etc. Such revelations having led to the discovery of all the stolen property, excepting this sum of fifty rupees, the Jamedar of

attributed therein to the Police are a figment of the imagination and the usual stock in trade of a type of legal advisors to whom such unfortunate victims resort.

3. Reverting to the case in point, Manja was duly charge-sheeted before the First Class Magistrate, and even though the accused wanted to plead guilty and beg the mercy of the Court, Advocates Messrs Narain Iyengar and Sheluva Iyengar (Mr.Garudachar's friends) defended him, without fees, and against the wishes of the accused put in a list of defence witnesses, of whom Mr.Garudachar was one. The accused, nevertheless, was found guilty and sentenced to a year's rigorous imprisonment, and in the judgment the Magistrate recorded that the sum of R .50 taken by Mr. Garudachar was part of the stolen property, and added "the offence itself occurred later than the 5th October, and the story as given in Exhibit D-1 (No.IV) is absolutely false. Exhibit P-1 (No.III) is in the own handwriting of Mr.Garudachar and there he writes that the accused then admitted that the R .50 paid to him for fees formed part of the stolen property. From these facts it is clear and it leaves no doubt in my mind that the accused did commit the offence of theft and was very liberal in his dealings with his lawyer. He went back perhaps to bring more money but could not get an opportunity to reach unseen the spots where he had buried it. It is also quite possible that he did not see the wisdom of presenting himself before the Deputy Commissioner and courting an arrest notwithstanding the advice given to do so by his lawyer". On appeal, the conviction was

confirmed.

4. This final disposal of the case by the judiciary was on 8th March 1916, and immediately afterwards the Thirthahalli taluk Police proceeded with the cases of receiving or retaining stolen property under Section 411, Indian Penal Code, in the usual course, as they were legally bound to do on the face of the judicial pronouncements. Accordingly, after submitting the usual First Information Reports against all the three persons, Kanabur Venkatachari, Venkate Gowda, and Mr. Garudachar, the Inspector Mr. B. R. Subbanna arrested on the 17th March 1916 Kanabur Venkatachari who was on the spot, and placed him with a charge-sheet before the Thirthahalli taluk Magistrate, who remanded him to the lock-up. Venkate Gowda who is an influential rich ryot, has been evading arrest, and on information that he was being harboured at Shimoga, the Inspector went thither on the 18th idem but could not trace him. He was then laid up with severe dysentery for 4 days and could not move out. In the meantime, the Civil Court long vacation was approaching and it was thought likely that the Vakeels would be going out of Shimoga. To avoid undue delay, which would have been found fault with, the Inspector thought of taking Mr. Garudachar before the Magistrate, prior to proceeding to Bangalore in search of the other accused Venkate Gowda, whither he was understood to have gone. So, on the morning of the 22nd March 1916, he went to the local Inspector Mr. Ball, and then sent Jamedar Rudriah to find out if Mr. Garudachar was at home. The Jamedar returned saying he had left the house, and so Mr. B. R. Subbanna and Mr. Ball went after him and met him near the Municipal garden. Now his arrest, which

was purely technical and formal, was effected and what all actually took place thereafter are explained in paragraphs 10 and 11 of the Memorandum (No.II) and Mr. Garudachar himself who saw me did not dispute them either.

5. As regards the several allegations of Mr. Garudachar, Mr. Matthan has explained that there is no substance in any of them. The reference to the Inspector General, as having warned the local authorities in the matter, is of the same category as that to Government having intervened and issued orders to Mr. Zamirudin Meccai to release him on bail! Now in his individual case, the Police could have taken a course unusual and different from the obligatory procedure laid down by law, is beyond comprehension, especially when another accused charged with a similar offence in identically the same course of transaction had already been arrested and even remanded to the lock-up by the Magistrate on the 17th idem. Any other course, under the peculiar circumstances of this case, with Mr. Garudachar's own doings and writings and judicial findings, would have been fraught with grave risk and danger, from several aspects.

6. His allegation of malice and ill-feeling on the part of the local authorities is utterly unfounded. But for the fact that his own friends Messrs Narain Iyengar and Cheluva Iyengar caused all the noise and sensation, despatched startling telegrams and created quite an uproar and a scene as part of a preconcerted scheme, the matter would not have received any publicity, especially as the Police effected the arrest with the utmost secrecy, very politely and quietly and in a most inoffensive

manner without attracting the attention of anybody. They treated Mr. Garudachar like a gentleman, and gave him the only chair in the Inspector's office. Furthermore, not only was he at the very onset informed that it was a mere formal arrest and that all convenience and facilities would be given to him, as well as such time as was needed for his obtaining bail, but also his own legal friends were, at his request, fetched by the Police themselves. And, in fact while one of them, Mr. Cheluva Iyengar was actually engaged before the District Magistrate in obtaining bail, telegrams etc were being flashed outside.

7. The whole agitation would seem to have been deliberately engineered for the purpose of terrorizing the local executive and judiciary, by some of the Advocates and Pleaders (against whom serious charges and suits by private parties are pending before Courts), with a desire to have the upperhand in everything.

8. Further exposition of the subject or comments on the evidence available on the merits of the case, at this stage, would obviously be inexpedient and not in the interests of justice, inasmuch as the cases are all sub judice.

9. I send enclosed also Mr. Garudachar's petition to you for favour of reference.

Yours Sincerely

Srikanta Varadiyan

No. 2

COPY OF D.O., MARKED STRICTLY CONFIDENTIAL, DATED 3RD APRIL 1916, FROM THE DEPUTY COMMISSIONER, SHIMOGA DISTRICT TO THE INSPECTOR GENERAL OF POLICE.

-------00000-------

I return herewith Mr. Garudachar's letter to you which you gave me on the 29th morning and his letter to the Dewan, sent to me with your D.O. of the same date, and as desired enclose a detailed report drawn up by the Superintendent of Police of the circumstances relating to the arrest of Mr. Garudachar on a charge of receiving stolen property. I am sending a copy of the report to Government as they have also called for it. The facts of the case are fully set out in the report enclosed and need not be recapitulated here, but as Mr. Garudachar's communications, even when shorn of the exaggeration and surmises and imaginings which are only natural in a person who considers that he has a grievance, contain a number of insinuations and a definite charge of malice and vindictiveness, I may be permitted to refer here to a few points connected with the case.

x Sent to Mr. Matthan with D.O. No. C.S. 202(6) & 5.10.16.

2. Judicial tribunals having decided that the cash traced to Venkatachari, Garudachar and Venkategowda was stolen property, the Police could not drop the matter, since they had every reason to be satisfied that the property was received with the knowledge that it was stolen, and Mr. Garudachar's statement given to the Police in his own handwriting shows that he, at least, retained the property knowing it to be stolen. It is for the Magistracy to decide the question, whether the accused persons are guilty or not.

2

??

3. The case being a non-bailable one, the Police were bound under section 170(1) Criminal Procedure Code to forward the accused in custody to the Magistrate. It may at first be thought that the Police, though legally empowered and required to arrest the accused, might well have stretched a point and even gone out of their way and have only asked him to execute a recognizance for appearance before the Magistrate on a date given. But on a full consideration of the circumstances it will be evident that the Inspector had no other course open, except the one that he actually adopted. The case is one in which the property involved is nearly Rs.5,000/-.At an early stage there was a definite plot to bribe the Police. If in the case of Mr. Garudachar or Venkategowda the Police had made any discrimination and treated the accused in any special manner, public suspicion would have been at once roused and superior Officers themselves would suspect the Inspector.The Inspector's duty was to secure the accused; it was the business of the accused to apply for and obtain bail from the proper authority, and for this every facility was afforded. It is significant that the Police were never asked to accept bail. This is because Mr. Garudachar and his legal friends knew very well that the Inspector had no power to do so; otherwise they would undoubtedly have put in at least a formal application. The statement that after bail was ordered the Inspector went to the District Magistrate and protested is a pure fabrication -(just as much as some of the other allegations that the Inspector had said he was making the arrest under the Superintendent's instructions, that he went to

bring the Superintendent Etc) - since the Inspector went to the District Magistrate only because he had been ordered to do so.

4. As regards the allegations of malicious motive, all facts negative the same. The suggestion that the Police waited for an opportunity when the District Magistrate and the Sessions Judge would be both absent from the station, is perfectly absurd. If the Police had any such idea they would have effected the arrest on the 19th or 20th before Mr. Meccai came to Head Quarters and not waited till a day after his arrival. The reference in Mr. Garudachar's letter to the permanent Deputy Commissioner being absent on leave and no orders having been passed by Government about his successor cannot be bonafide, and can only be intended for effect, as every one knows(and none better than the members of the legal profession) that the law has distinctly provided for such a contingency by laying it down that the Assistant Commissioner of highest rank present in the District shall succeed temporarily to the office until the Government nominates a successor, and exercise all the powers of Deputy Commissioner and District Magistrate. To show how well known to every-body this is, I may mention that I have just seen a telegram addressed by one Jalachar of Shimoga on the 20th March to "Zahiruddin Meccai, Esquire, District Magistrate, Sagar" complaining against certain orders of the Local 1st Class Magistrate.

5. The second reference in Mr. Garudachar's letter that "Mr. Meccai had received Government

orders that morning", probably refers only to the same point, but it is widely given out and industriously circulated that the Government had instructed the District Magistrate to admit the accused to bail. This, of course, is quite false; but the object of starting such a rumour -(like that of sending off sensational telegrams to the Sessions Judge, the Inspector General of Police and the Dewan, before ever the District Magistrate had time to pass orders on the bail application) - is apparent, Viz, to distort facts, create noise and sensation, mislead the authorities and intimidate the subordinate executive-which would be so disastrous a result and likely to bring about unrest and disorder. Signs are not wanting of a tendency to flout the Administration- witness for instance, Mr. Narain Iyengar's threat to "Shatter the Administration" as mentioned in the Superintendent's report- which I find is perfectly well authenticated. I also learn from a reliable source of these people using wild language of resorting to the Resident, the Government of India and even to the British Parliament.

6. Reference is also made in the papers enclosed to an adinterim order not to take Mr. Garudachar to Thirthahalli pending disposal of the bail application. There was no need for any such order. For, at the very outset, Mr. Garudachar was assured by the Inspector that whatever convenience he wanted would be afforded. At his request two Vakil friends were immediately sent for, time was given for their applying for and obtaining bail order, and every facility was actually afforded. If the Police wanted

to take him away to Thirthahalli without giving an opportunity for his being released on bail, nothing would have been easier for them than to have arranged a conveyance beforehand, and whisked him off. There was no necessity for this adinterim order and it is now seen that the object of applying for it is only a pre-conceived design to create one more piece of evidence to give the whole thing a colour of sensation. In fact, sensation is their object, and what sensation there is is the product of their own doings and imagination, even like the idea of marching him off to Koppa Etc. which had never struck the Police.

7. It is further alleged that the Police had been plotting to effect this arrest and preparing for it. But it is Mr. Garudachar and his friends that have from the commencement been carefully plotting and creating false evidence to break down the case for the prosecution. They coaxed the accused, held out promises of getting him off scot-free, defended him without fee by more than one Advocate, preferred and conducted the appeal before the Sessions Judge, wrote sensational letters to various people (e.g. marking on the cover remarks like "Safe till 4-30 P.M." Etc) and repeatedly approached the Inspector and the Superintendent of Police through their friends and sounded them as to whether a prosecution was contemplated, to which they frankly replied that it would be taken up as soon as the original case was concluded. The Superintendent and the Inspector assure me that the allegations that they said they were going to have Mr. Garudachar handcuffed and

paraded and openly disgraced is quite false as indeed must be the case, since, if they had any such intention, they would not have proclaimed it to the world but would on the other hand have kept this object secret and given effect to it when they had the power to do so. The original case was decided on 25-1-1916, the appeal was dismissed on 8-3-1916, Venkatachari was arrested and placed with charge-sheet before the Thirthahalli Magistrate on 17-3-1916 and the Inspector proceeded to Shimoga on 18th March 1916 to secure Venkategowda and Garudachar.

8. Shorn of all effusions and mere allegations and insinuations of motive etc, which are all disproved, the gist of the whole affair turns out to be that Advocates want a particular special treatment for themselves, other than the ordinary legal procedure laid down. They want the Courts and the Local Executive to give decisions and adopt a course of conduct agreeable to themselves irrespective of the merits of each case.

9. You are, I believe, aware, and the Government are also, doubtless, not unaware of the fact that some of the Vakils, here, have an unenviable reputation. The Police have knowledge of their doings, the fabrications of false evidence, harbouring of murderers and other offenders, suborning of witnesses etc. The Police, however, never rake up these things, but when the occasion arises within the course of their duty, they must not hesitate to deal with such cases without fear or favour and without regard to the wealth,

No. 7 D/ 11.12.15.

Ext: P1 in C.C. No 27 of 15-16

[illegible] 30.10.15 [illegible]

అంగీకారం అ జీవిత బర నిచ్చునిజీవితాంతలు మరియు
అన్నంగీకారం చేసి పోతే కొన్నదారు నిచ్చు నిజీవితాంతలు వేరు
కొంటాం తేశాసంద న్నల్లో చేతిలో ఉన్నదస్తావేజు నిజీవితాంత
లు ఒక్కొక్కరు వదల్లుగా తేశాను నన్నప్పుడు అవ్వకొక్కరు
మంటిరువన్నల్లో తరతరాలు గారతి రాండ్రాలు తరతరాలుచే
ళ్ళరుగుచు తమ్ము మంటిచేసుకుంటు తివత్తు మంటాంటి
న్నళ్ళు ఇష్టపడ్డ నిజీవితాంతలు వచ్చిదాక్కి నే. నని
నేరుగుంబ్రగ్రహంచ తివత్తు మంటిరుగుచున్న
ఇతరులు బలవంతగ ఉండాలనే దేశరిపిలిచి కాగిరుత్తే.
ఆకగ నే దరిమంటి నుంచుకొల్లుంటే కోర్టులు కనుజమం
దారు అంగడబందు అవర నే మక్కువ మనని నేచుకొల్లుంటం
తే రుగుంబ్రగ్రహించ్చేటుంబలను తేశాను ఆళ్ళు మం టి
ద చేరుంబలను కోరి ఆ తిరిగుందుంటగ్గ చేస్తుత్తి నే. న
న్నల్లో పేరు మంచాగ్రామ్ గ్రామం అంటి నాకు తేరా
ళ్ళ చిన్నగ్రామం నాంగనియలు నిరతిరాంగ్రాలు ఉండు
చేళ్ళు నిజీవితాం దేనుంటారు అవర నే మక్కువ వచ్చి
రుత్తి నే. చేస్తుంటంతే అవను కోర్టువరువరుంటా
లున్నళ్ళు ఒక్కొక్కని రుంచ్చరిందలుంటే అవ మనని
నేరుగుంబ్రగ్రహించ identical రుంటాంటిన
ళ్ళు నన్నల్లో తెచ్చిరింద అదన్నుంటాజేరు మంచ
లు కాన్నివిల్లా. ఈ రుంటిను నన్నిందరన్నుచేళ్ళం
చేలలో కోర్టుగ్రహించ్చేటప్పుడు ఇదే బర నిచ మరియు అ
దేతే న్నవి తేరుగుచేళ్ళు ఇష్టపడ్డ రుంచ కోర్టుల్లుంటం
తే నే దరిమంటి రుంచ్చుకొంటే నిచే ఇదన్నుకొని చేళ్ళు
అ తేను జీవుంచ్చారు మరియు చేరు ఒకలుతేయ్యాం
గారు రుంటుంబలు జీవిస్తుంటే అ జీవితాన్ను
జీవుంచ్చారే చేరు నుంచ్చారు అయ్యారు జీవనిని న
న్నల్లో ఇట్టిల్లు రుంటిరుత్తే నే. అదన్ను బేరం
దాం గ్రహించ్చి నేను జీవుంచ్చుంటలు నిచ్చి తాని
చేశాను.

(Sd). B. Garudachar
Advocate
1.12.15.

Witness
(Sd) A. Cheluvaiengar
1.12.15.

మంచిత్తుడు శేషదాక్ తండ్రి.

(Sd) N. Subba Rao, Jamadar
1.12.15.

ಕೆಳಗಿನ ಗ್ರಾಮದ ಇರುವ ಕೆಲವು ಜನರು ಅಕ್ಕಿಯನ್ನು ತೆಗೆದು
ಬೆಳೆಸಿದ್ದರು ಅದಕ್ಕಾಗಿ ಸರ್ಕಾರಕ್ಕೆ Rs 40/- ಕಂದಾಯ
ಕೊಟ್ಟಿದ್ದರು ಕೆಲವು ವರ್ಷಗಳ ಗ್ರಾಮದ ಮೇಲೆ ಗ್ರಾಮದ ಮೇಲೆ
ಇಲ್ಲದ ಕೆಲ ಕುಟುಂಬಗಳು ಗ್ರಾಮ ಇಗ್ರಾಮ
ಬಿಳಿ ಗಾಳಿ ಹಂಸಿಸಿ ಕೊಂಡು ಕೊಂಡ್ಲಿ ಕೊಂಡುದರಲ್ಲಿ ಬಹುದಾಂ
ದ ಖಾಂದಂದರ ಸರ್ಕಾರ ಕೆಲವು ಕಾಯಿದೆ ಬಿಳಿಕೊಳ್ಳುವುದಕ್ಕೆ
ಗಂದರೆ - ಖಾಂದಂದರ ಸರ್ಕಾರ ಗ್ರಾಮದ ಬಗ್ಗೆ ಕೆಳಗಿನ ಜನರ
ಲ್ಲಿ ಕೊಟ್ಟಿದ್ದ ಹಂಸಿ ಗಂಡಲು ಅವರಿಗೆ ಕೊಂಡುದಂತೆ ಬಿಳಿ
ಗಾಳಿ ಬಾಯಿ ಇರ ಬೆಳೆಸಿದಾಗ ಹಾಗೆ ಗ್ರಾಮದಲ್ಲಿ ಇರುವಂತ
ಲ್ಲಿ ಇರ ಬೆಳೆಸಿದ್ದ ರಸ್ತೆ ರಲ್ಲಿ ಇಲ್ಲ ಬೆಳೆ ಇಲ್ಲದೆ ಬೆಳೆಸಿ
ರಿಸಿ ಗ್ರಾಮ ಬೆಳೆಸಿ ಬೆಳೆಸಿದ್ದರೆ ವಿಚಾರಣೆಗೆ ಸರ ಗಂಡು ಬೆಳೆ
ಸಿದಾಗ ಬಾಯಿ ಬೆಳೆಯಬೇಕು. ಗಾಳಿ ಗಂದ
ರಂದ ಬಾಯಿ. ಗ್ರಾಮ ಗ್ರಾಮ ಕೊಂಡುಕೊಳ್ಳುವುದು ಇಗ್ರಾಮ ಸರ್ಕಾ
ರ ಹಂಸಿ ಗಂಡರಂತೆ ಕೆ ಶಾಂ ಅವರು ಬೆಳೆಸಿದಾಗ ಬಾಯಿ ಬೆಳೆಯ
ಬೇಕು.

There is left-thumb mark of Kallukoder Manjappa.

30.X.15.

Seen

(Sd) Subba Row.

1.12.15.

Copy

*

In the Court of the Treasury Assistant Commissioner & First Class Magte, Shimoga

Criminal Case No. 27 of 15-16.

Exh D.1
(Sd) C.G.
Magte

Criminal Appeal No. 15 of 15-16 on the file of the Sessions Judge, Shimoga Dt., Shimoga

[illegible]

[illegible]

[illegible]

T. G. NARAYANA AIYANGAR, B.A., B.L.,
ADVOCATE.

SHIMOGA.

3rd April '16.

To
Sir M. Visveswaraya K.C.I.E.,
Dewan of Mysore
Bangalore.

Sir,

I beg leave to express my respectful thanks for the timely and encouraging reply given to my two telegrams in the matter of the untoward incident that happened to Mr. Garudachar, on the 22nd ultimo.

The incident has created a dark concern in the minds of the public, and the result of the enquiry is awaited with great anxiety.

The facts are very simple and of everyday occurrence. Mr. Garudachar received on 30.10.1915 from one Manja a sum of Rs 50/- in cash for services rendered to him by drafting and preparing for him a petition complaining of the high handedness of the Tirthahalli Taluk Police. Paper marked A herewith appended is copy of the petition so drafted; and paper marked B is copy of the deposition of Mr. Garudachar

who was examined in the case against Manja and this explains the situation with reference to the said petition paper A.

More than a month after the receipt of money, i.e., on 1-12-1915, the said Manja was brought in Police custody by the Jamadar of Tirthahally before Mr. Gundachar, when he says that the money that had been paid to Mr. Gundachar by him on 30.11.1915 was also part of the stolen money. He, however, admits before the same Jamadar at the same time while questioned by Mr. Gundachar, that when paying the money and getting the petition prepared he assured the gentleman that he was thoroughly innocent and that he was being unjustly harassed by the Police.

All these circumstances are mentioned in the statement taken by the Jamadar from Mr. Gundachar on 1-12-1915. Copy of this statement is paper C herewith annexed for kind perusal. This same Manja has in the case against him stated in answer to the question put to him by the trying magistrate that the money he paid to Mr. Gundachar was his own money. A copy of

In re the Collector of Salem reported in 7 Mad H.C.R.R p 233, and in Emperor vs Baij Nath reported in 29 I.C. 92.

Under these circumstances it may naturally strike one unacquainted with local affairs, as to what could have been the motive for the Police to have taken such an unprecedented and astounding step against a long standing and senior Advocate of the place. But it was an open secret here that this opportunity would be availed of by the Police to publicly disgrace the gentlemen concerned. And it may be surprising to you, sir, to know that I have heard from Mr. Shankar Narain Rao M.A. BL Advocate (and I am referring to it here with his kind permission) that Mr. Abdul Wazid the District Superintendent of Police under whose direction the arrest is said to have been made was, before this incident, openly

mentioning

T. G. NARAYANA AIYANGAR, B.A., B.L.,
ADVOCATE.

SHIMOGA.

Manjis statement before the trying magistrate is paper 7 marked herewith.

These are the circumstances under which an offence under Sec 411 I.P.C is said to have been committed, and for which, after a deliberation of nearly 5 months, on 22nd March 1915, when the Sessions Judge was absent at Chitaldroog for sessions, when the permanent District magistrate was on leave, and the Amildar magistrate of Tirthahally before whom the person arrested had to be proceeded with, was absent from the local limits of his jurisdiction, the arrest of Mr Garudachar was effected as he was going to the courts. And there was strong opposition in the grant of bail before the Officiating District magistrate.

It is a settled point of law that title to money passes by mere delivery as is clearly laid down

T. G. NARAYANA AIYANGAR, B.A., B.L.,
ADVOCATE.

SHIMOGA.

mentioning the ill-will that he bore to Mr. Garudachar that it was due to him that a certain bargain for a motor cycle made with him by one Mr. Chalvingar fell through, that Mr. Garudachar had issued to him a registered notice, and that now was an opportunity to book him, that he would be arrested, handcuffed and paraded from Shimoga to Tirthahally. The Inspector who arrested this gentleman has also been heard saying that he would go to Shimoga on a particular day, mentioning it, arrest the gentleman, handcuff him and parade him obtain a few days' remand at Tirthahally and then place the Charge Sheet! and so forth.

But all this talk, most of us thought, was too

the lawless to become an accomplished fact, till the astounding incident actually took place.

From this you may be convinced that the D.S.P. Mr Abdul Wazid has with deliberate intent abused the sacred power entrusted to him by the Government, and has publicly disgraced one of the most respectable of His Highness' Subjects, for whose safety and well-being so much care and anxiety is entertained by the benign Government.

In the facts of the case stated above, sir, you may be pleased to see that there is no case against the gentleman, and much less anything to justify his arrest. It is therefore earnestly solicited that it may please you to direct a searching enquiry into the matter and deal with the culprits in such an exemplary

T. G. NARAYANA AIYANGAR, B.A., B.L.,
ADVOCATE.

SHIMOGA.

exemplary manner as will infuse confidence in the public.

It may not be out of place to bring to your kind notice that in connection with a case of much less importance which occurred in Nov 1914, at the instance of this same Superintendent of Police, the District magistrate Mr Mathan has issued a circular about the inexpediency of even bailable warrants being issued against even a Police constable, when there was a sworn complaint for offences which warranted arrest. I have appended herewith copies of the Police Superintendent's reference and District magistrate's circular, for your kind consideration. They are papers marked D & E hereto annexed.

Begging

Begging to be excused, sir, for the liberty that I have unavoidably taken in the interests of public justice,

I beg to remain,

Sir,

Your most obedient & humble servant

T.G. Narayana Aiyangar

for recd.

A.

In the court of the Treasury Assistant
Commissioner & 1st class Magistrate
Shimoga

Criminal case No 27 of 1915-16.

Exhibit No 1.

(Sd) C. G.
Magistrate
5-1-16.

Criminal appeal No 15 of 15-16 on the file of the Sessions Judge, Shimoga Division Shimoga)

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

There is left thumb mark of

Kalinkodu Manjappa.

30. x. 15

Seen

(Sd). Subba Rao.

1-12-15.

B

Deposition Sheet Form No. 38

Criminal case No. 27 of 1915-16 on the file of the Treasury assistant Comr. and First class magistrate. Shimoga.

Deposition of witness No. 1 for defence taken on affirmation this 5th day of January 1916.

Witness age appears to be about 56 years.
Witness name is :- B. Gundachar
my fathers name is :- Linga Iyengar.
I am by caste :- Brahmin & by occupation Advocate.
I reside at :- Shimoga. Taluk. Shimoga.
Dist :- Shimoga.

The accused got a petition written by me to be presented to the District magistrate & Deputy Commissioner and District Head of Police. It was written on 30-10-1915 in the evening. He has affixed his left thumb impression to it. Exhibit D1 is the petition I wrote for him. I wrote to the direction of the accused. This was produced by me before the investigation Officer when I was examined by him. The investigation Officer affixed his signature to the petition on that occasion. I gave a written statement to the investigation Officer of what I mean in the case. The accused left it with me saying that he would come

Come back and presented it to the Deputy Commissioner after making necessary arrangement for his defence etc in case he was arrested and locked up at the time of presenting the petition.

Cross-examined :- I have not made a note in the petition that it was read over and admitted by him. It is not usual to do so. The relation between the accused and me is that of a lawyer and a client. As I wanted it to the presented by the accused personally I did not give it to the Deputy Commissioner. I did not send it by post. This has been in my custody even since it was written. This was read over to the accused before the investigation officer and admitted by him. I did not hand it over to the accused when he was brought in custody by the investigation officer or subsequently.

Read over and admitted to be correct.

C. Gopalachar
(Sd). ~~[illegible]~~
Magistrate
5-1-1916

C

Exhibit P1. C. C. No. 27 of 15-16. Dt. 11-12-15

[illegible]

[illegible]

(Sd). B. Garudachar.
Advocate
1-12-1915

Witness
(Sd). A. Chaluva Iyengar.
1-12-15.

(Sd) [illegible]

(Sd) N. Subbarao. Gumadar 1-12-15.

letter
Circulate to
all magistrates.

D.

Copy

From. The District Magistrate
Shimoga.

To. Mr.

dated Shimoga the 31st October 1914.

No. 3320 / enclosure 1.

In forwarding herewith copy of letter No. 215, dated 10th ultimo from the District Superintendent of Police, Shimoga, regarding the issue from his court of warrants (bailable) for the ~~al~~ arrest of a police jamadar and a constable charged with offences under Sec 409 & 420 I.P.C. the under signed has the honour to state that in a case of the kind the Assistant Commissioner magistrate would have exercised a wise discretion if he had issued summonses to the accused or held a preliminary ——— investigation as he is empowered to do so under Sec 202 C.P.C. before issuing warrants to the police officials & then avoided unnecessary and possibly unmerited humilition of public servants.

(Sd). K. Mathan
District magistrate

E.

Copy of letter No. 215 of 10th Sep 1914.
from the Superintendant of police Shimoga.
to the District Magistrate, Shimoga

I have the honor to report that warrants of arrests with provisions for bail for offences under Secs No 9 & 420 I.P.C. against Jamdar Abdul Rayak & Constable No 128 Pinto of the Benkipur Station were received from the 1st class Magistrate Shimoga Sub Division and were returned after being served.

The offences are the most heinous a public servant and a police officer could be accused of but in as much as no preliminary enquiry applies to have been held by the Magistrate under Sec 202 C.P.C. before issueing the warrant it is premature to say whether there is any truth in the complaint or not while I donot question the legality of the procedure adopted by the Magistrate, I beg to observe with due deference that officers of the ~~public~~ public service deserve more courteous treatment and certainly nothing would have been lost if summonses had been issued in the first instance. Sec 204 C.P.C gives Magistrate ample

E (contd.)

discretion in the matter of issuing a summons in the first instance the main point for consideration being whether under the circumstances the appearance of the Accused could have been secured or not without his arrest and in the present instance there was no fear at all of the persons against whom process was issued evading attendance, I beg to state that such action whatever the legality is bound to weaken the hands of the Executive — and have a demoralising effect on the service.

Examination of accused person. Sec 364 C.P.C. Form No. 39 (Criminal)

In the court of the Treasury Asst Commissioner & 1st class magistrate Shimoga.

Criminal case No. 27 of 1915-16

(Criminal Appeal No. 15 of 15-16 on the file of the District & Sessions judge. Shimoga Division Shimoga)

Name of accused :- [illegible]

Age :- [illegible]

Race Religion [illegible]

Father's name :- [illegible]

Resident of :- [illegible]

Occupation [illegible]

Q. [illegible]

A. [illegible]

Q. [illegible]

A. [illegible]

[illegible]

Q. [illegible]
Cross examination [illegible]?

A. [illegible] (The pleader says that he will produce the list)

[illegible]

There is left thumb mark of Manja.

Certified that the above examination of Kallukodu Manja, accused, was taken in my presence and in my hearing, and that the record contains full and true account of the statement made by the said Kallukodu Manja.

(Sd). C. Gopalachar
Magistrate.

Dy. the 14th day of December 1915

Petn. Regr. No 8068

C.

INDIAN TELEGRAPHS.

165-15

NOTICE.

This form must accompany any inquiry made respecting this Telegram.

Charges to pay: Rs. 8 As. 2567

Office Stamp

Handed in at (Office of Origin)	Date	Hour	Minute	Service Instructions	Words
Shimoga	22	12	55		41

Recd. here at 14 H. 50 M

TO

Dewansahib

Bangalore

ble that mr Garudachar

tanding advocate is

while going today

because sometime ago

t fees 50 cash from

Gulab Singh

N. B.—The name of the Sender, if telegraphed, is written after the text.

Scutte—

Petn. Regr. No 8068

C.

INDIAN TELEGRAPHS.

165-15

NOTICE.

This form must accompany any inquiry made respecting this Telegram.

Charges to pay: Rs 86 2567

Office Stamp

Handed in at (Office of Origin)	Date	Hour	Minute	Service Instructions	Words
Shimoga	22	12	55		41

Recd. here at 14 H. 50 M.

TO Dewansahib

Bangalore

Deplorable that mr Garudachar long standing advocate is arrested while going today office because sometime ago got fees 50 cash from

N. B.—The name of the Sender, if telegraphed, is written after the text.

Lab Singh & Sons, Calcutta—

DEWAN'S OFFICE.
Date of Receipt 23.3.16

C.

Petn. Regr. No 8069

INDIAN TELEGRAPHS.

NOTICE.

This form must accompany any inquiry made respecting this Telegram.

Charges to pay. Rs 81.200 As 2

Office Stamp. BANGALORE 22 MR 16 C.T.D.

Handed in at (Office of Origin)	Date	Hour	Minute	Service Instructions	Words
Shimoga	22	16	15		13

Recd. here at 17 H. 24 M.

TO Dewansaheb Bangalore

Mr Garudachar is since allowed bail by district magistrate

= Naraniengar =

N. B.—The name of the Sender, if telegraphed, is written after the text.

Gulab Singh & Sons, Calcutta—

DEWAN'S OFFICE.
Date of Receipt 23-3-'6

Bangalore

Inwards

File No 165-B 22/3/16

Sl. No. 3

Narayanayengar Esquire

Advocate Shimoga

Received both your telegrams ~~Have~~ ~~no detailed information~~ are making enquiries Government have no doubt that District Magistrate if approached will be quite fair.

Dewan

File no 115-15
Sl. no. 4

Memo No. J 3795.
Encls. 2.

The accompanying copies of telegrams dated the 22nd March 1916 from Mr. T. G. Narayana Iyengar Ba. Bl. Advocate, Shimoga, regarding the arrest of Mr. Gurudachar, Advocate, is forwarded to the Dy. Comr., Shimoga Dt., for a report as to the facts of the case within ~~a week~~ four days.

Date of issue. 23. 3. 1916.
Signed by Mr. G. Sreenivasa Iyengar

By Order
For Secretary to Govt.
Gl. Dept.

B.G.
23.3.16.

D
1/3

G. R. S. 26]

2 Dsc of 16

File No.

Reminder Serial No.

Diary No. of letter replied to

No. J 3889

General and Revenue Secretariat

( )

, the 191

To

The Dy. Comr. Shimoga Dt.

Date of issue 28th March 1916.

Signed by Mr. G. Neeraman Dr.

Has the honor to invite his attention to this office memo no. J 3795-Pol 165-15-4 dy 23.3.16 regarding the arrest of Mr. Gamdachar, Advocate, and to request that the report called for therein may be sub. at once.

By Order

For Secretary to Govt.

Gl. Dept.

over.

SUBJECT.

BG.
28.3.16.

Requires a thorough enquiry 26.2.16

DIARY No. J 2605
12/5-19/6
Police
165-15
5

Sir M. Visvesvaraiya B.A., L.C.E., K.C.I.E.,

DEWAN OF MYSORE, BANGALORE.

Respected Sir,

It is with great regret and extreme pain and anguish that I now approach you for redress of the flagrant wrong done to me and through me to the Public and the profession out of sheer grudge and as it is said, in spite of the warning of the Inspector General of Police, with a deliberate intention of disgracing me in the eyes of the Public and thus striking a terror in the District. I am an ad-vocate of 29 years standing. I have all along discharged my duties to my clients and to the Public honestly and to the best of my abili-ties, and am not unknown to you Sir. The case they wish to launch against me (since the charge sheet is not yet placed) is what they call receiving or retaining stolen cash received by me as fees. I do not like to trouble you now by a recital of the case, since all those that have heard of it have laughed over it. I had even approached the Inspector General of Police, and kept him informed of the intended ill treatment to me at the hands of the Police, and he was pleased to ass-sure me that there was no cause for fear. If the authorities here were right minded and had taken the opinion of the Public Prosecutor or of the Government Advocate, they would have seen whether they could proceed against me criminally, and whether they could have adopted the extreme step they have now taken. It is not their purpose to consult them, because their main object is to disgrace me by an arrest and to make me figure as an accused in the court irrespective of the result of the case. I was hearing from several sources that they were giving out openly that they would arrest me, handcuff me and take me to Tirthalli parading me, and I kept my friends informed of it, but they all laughed and could not believe it. I believe the Deputy Commissioner was aware of their intention to arrest me and he does not seem to have dissuaded the District Superintendent of Police, even though he met him before

he suddenly left on leave. They could have according to law, placed a charge sheet before any Magistrate of this place instead of at Tirthalli as I am said to have received stolen money as fees here; but that would not give them much scope for disgracing me. That would not have inconve-nienced me and even the witnesses, since they themselves had arranged for the trial of the original theft case in Shimoga before the Treasury Assistant Commissioner Magistrate, since the Talook Magistrate had taken part in the investigation (and as such he cannot even try these cases also). Their main object is to arrest me and take me to Tirthalli, 36 miles, handcuffed, as given out, and parade me there. They chose for this a most propitious time (as they thought) at a time when the permanent Deputy Commissioner was absent on leave, and the Government had not issued orders appointing Mr. Zahirudeen Maccai to be in charge of the District; at a time when the Sessions Judge was away at Chitaldroog for the Sessions and at a time when the Amildar of Tirthalli was away from his talook so that they may take me away to Tirthalli without an opportunity for bail and keep me in the Police lock-up and even take me to Koppa for remand if the Amildar did not turn up within 24 hours of my arrest. The Police Inspector of Tirthalli was here for the last 5 or 6 days to meet the District Superintendent of Police who came here after meeting the permanent Deputy Commissioner at Sagar on the evening of the 19th. inst. On the unfortunate day i.e. 22nd inst. when I was going to court with my brief, on the way, at 10. 30.A.M. the Police Inspector of Tirthalli supported by the Inspector and Jamadar of this place, met me and told me that he had instructions from the District Superintendent of Police to arrest me and take me to Tirthalli, and took me to the Talook Police station here, made me sit there in charge of Mr. Ball & a Jamadar and went away saying he would bring the District Superintendent but turned up with three panchayatdars and without the District Superintendent of Police, at 11.20 A.M., and began to draw up the arrest report after searching my body and then took me aside and said that I should be ready to start in a jiff, and was arranging for handcuffs in the adjoining room. Thank Good Gracious God, as my luck would have it just that morning Mr, Zahirudeen Maccai had received government orders. The news of my arrest spread to the whole town and the courts and stirred

the minds of the people who deplored my arrest. My lawyer friends at once approached the District Magistrate for bail who said he would pass order after hearing the Prosecuting Inspector. Meanwhile, an interim order to the Police Inspectors not to take me to Tirthalli, was passed and served on the Inspectors with difficulty. The motion for bail was stoutly opposed under instructions, by the Prosecuting Inspector. Messrs Sitaramaiyya, Shankaranarayana rau, Narayana Iyengar and a host of others argued my case as they all felt it a personal disgrace and the orders were passed to release me on surety of Rs500 /- and my personal muchalika for a similar amount. Even after the orders were passed, the Tirthalli Inspector went to the District Magistrate and seems to have opposed the bail and the District Magistrate would not listen him observing that he had heard enough and passed orders and asked him to execute orders immediately. The order reached the Police Station at 4.30. P.M. when I was released from custody and I came home. If they had placed the charge sheet and asked me to appear on any day or issued a summons to me I would have obeyed the order. It is my God and the Government by issuing orders to Mr. Zahirudeen Maccai that prevented my further disgrace and even torture, perhaps on the way, or at Tirthalli.

Kindly imagine my feelings and the feelings of the Public of this District after this arrest at my oldage of 56 years.

Under the above circumstances, can I hope to have a fair trial in this District? I had not seen such a state of affairs here in the whole of my life and I am fully confident your keen sense of justice will not allow this to go without proper notice of the conduct of the erring authorities. Begging humbly to be pardoned for this long letter and srong language, if any, under a sense of wrong done to me and the resultant feelings,

I remain , Respected Sir,

Your obedient Servant,

B Gajendachar

S H I M O G A.

25th March 16.

Confidential

Draft

Police. 165-15-6.

General and Revenue Secretariat,

Dated Bangalore, the 28th March 1916

D.O. No. 93890. Encl-one

My dear sir,

I am desired to forward herewith a representation received from Mr. B. Garudachar, Advocate, Shimoga, and to request you to be so good as to proceed at once to Shimoga and make a detailed enquiry and submit a report with your definite & recommendations ~~and~~ conclusions. Prima facie, the procedure --- seems ~~to be most~~ somewhat extraordinary. ~~and~~ As the case is likely to cause some public ~~excitement~~ comment, Government will be glad if a personal enquiry is made by you and a report submitted ~~to~~ --- ~~Government~~ within a week.

Signed by Mr. R. G. D'Souza.

Yours sincerely,

28.3.16 28/3/16

To

Dewan Bahadur

C. Srikantesvara Aiyar, Esq., B.A., B.L.,

Inspector-General of Police in Mysore.

KK

No 293

File no. 165-15
Sl. no 7

Office of the Deputy Commissioner,
Shimoga District,
Dated Shimoga 30th March 1916.

Dear Sir,

With reference to your reminder marked " immediate " received yesterday for the report called for on the 23rd instant regarding the arrest by the police of Mr.Garudachar, Advocate, I beg to say that the reference was submitted to me on my return from leave on the 28th instant, but I wished to see all the connected records before submitting a report to Government. The Inspector General of Police also was here, and we have made a thorough and searching enquiry into the matter. The report due to Government is under preparation and will be submitted in two or three days.

I may say at once for the information of Government the enquiry does not disclose any abuse of powers by the Police. The case is one of receiving or retaining stolen property (connected with an important case of theft of the Tirthahalli taluk). Three persons to whom the stolen property have been traced are being proceeded against by the Tirthahalli

No 298 Enl.

J. 2649

A. S. III

Immediate

Rec'd 4/4/16

Ss 4/4/16

Office of the Deputy Commissioner,

Shimoga District,

Dated Shimoga 2nd April 1916.

File no 165-15

Dear Sir,

In continuation of my D.O. letter No. 293 of the 30th March 1916, I submit herewith a copy of a report received from the Superintendent of Police of the facts relating to the arrest of Mr. Garudachar, Advocate, as called for in your Office Memorandum No. J3795/Pol 165-15-4 dated 23-3-1916. I am sending this demi-officially as the cases have not yet been disposed of by the Magistrates.

2. To what I have stated in my D.O. No. 293, I would only add that, far from any blame attaching to the Police for arresting a person accused of an offence under section 411 Indian Penal Code, any other course would have been blameworthy and open to censure. The Police Inspector's duty was to secure the accused person before presenting a charge-sheet, and it was the business of the accused person to apply for and obtain bail from the proper authority, and for this every facility was afforded.

Memorandum on

the case under Section 411, Indian Penal Code against Mr. B. Garudachar, Advocate, Shimoga.

There was a case of House-Breaking and theft at Vaddibyle in Tirthahalli Taluk on 10-10-1915 in which jewels and cash of the aggregate value of Rs 4733/- were lost. The Police suspected one Kalakod Manja, who, on being questioned made a clean breast of the whole affair and pointed out the places where he had hidden the property and mentioned the names of the persons to whom he had handed over the cash. These included

(1) Bilvi Nagegowda who had received Rs 500/- for safe custody.

(2) Hosahalli Venkategowda who had taken Rs 500/- alleging as bribe to the Police, Vakils' fees, Court expenses Etc.

(3) Mr. Garudachar Rs 50/- and

(4) Kanabur Venkatachari Rs 25/-

2. Jewels and cash worth about Rs 4210/- in all were thus recovered including cash produced by Bilvi Nagegowda, Venkategowda and Venkatachari.

3. A charge-sheet was placed against Manja in the court of the Treasury Assistant Commissioner and 1st Class Magistrate, Shimoga. The accused, who had made a clean breast of the whole affair, wished to plead guilty and threw himself on the mercy of the court, but was defended (without fee) by Messrs. Narain Iyengar and Cheluva Ivengar, Advocates. The defence managed to win over the principal witnesses. Although the accused stated to the court that he had no defence witnesses, the advocates cited witnesses for the defence, chief amongst whom was Mr. Garudachar whose evidence, naturally, broke down, and the accused was convicted. The Magistrate in his judgment held that the cash received by Mr. Garudachar as well as by Nagegowda, Venkategowda and Venkatachar was stolen property.

4. The conviction was upheld on appeal by the Sessions Judge, Shimoga.

5. Regarding the conduct of the investigating Officers Inspector Mr. Subbanna and Jamadar G. Subba Rao, the Deputy Commissioner was kind enough to report to Inspector General of Police that the manner in which the investigation had been successfully conducted under the guidance of the District Superintendent of Police and the resistance of all temptations by the subordinate Police reflected great credit upon them, whereupon the Inspector General of Police was pleased to observe "Very glad indeed. Do encourage such spirit. Note their conduct".

6. There are now three cases of receiving or retaining stolen property which are the off-shoot of this original case. These are in respect of the stolen cash received by Venkategowda, Mr. Garudachar and Venkatachari. These three cases have been taken on file by the Tirthahalli Taluk Police and First Intelligence Reports sent to the Amildar Magistrate in the usual course.

7. As regards the cash received by Venkategowda, the District and Sessions Judge before whom a claim was put in by him, has held it to be stolen property and the circumstances of the case and evidence available make it clear that he knew it to be such when he received it.

8. The money received by Mr. Garudachar was ostensibly for the purpose of presenting a petition to the District Magistrate, which he never did. The 1st Class Magistrate has held that it is stolen property. There is evidence that Mr. Garudachar knew it to be part of the proceeds of the theft when he received it, and in fact, he himself, when confronted with the accused Manja, has given a statement to the effect that although he did not know that the property was stolen, the accused now tells him that it was part of the stolen cash and that he declines to hand it over to the Police as it has been mixed up with other money and spent.

9. The investigation of all the three cases having been completed and the cases being cognizable and non-bailable, Kanabur Venkatachari was arrested on 17th March 1916 and placed with a charge-sheet before the Taluk Magistrate of Tirthahalli, who remanded him to the Sub-jail at Tirthahalli, posting the case for hearing on the 31st March 1916. As for the other two, Hosahalli Venkategowda has been evading and absconding and Mr. Garudachar was arrested on the forenoon of the 22nd March 1916 at Shimoga. On application to the District Magistrate he was enlarged on bail on the same afternoon.

10. The circumstances of this arrest which was only formal were as follows:---

After producing Kanabur Venkatachari before the Amildar Magistrate of Tirthahalli on the 17th March, Inspector Mr. Subbannah came to Shimoga in search after Venkategowda on the 18th idem but could not find him. He was then laid up with a severe form of dysentery till the 21st and feeling better on the 22nd, he went to Inspector Mr. Ball and sent Jamadar Rudriah to the house of Mr. Garudachar to see if he was in. The Jamadar brought the news that he had left the house. He with Inspector Mr. Ball went to find him and met him near the municipal garden. He greeted Mr. Garudachar and whispered into his ear that he had an unpleasant news to break to him of having to arrest him and asked him if he ~~xxxxxx~~ would kindly accompany him to the Taluk Kutchery, which was close by, which Mr. Garudachar readily did.

Mr. Garudachar wished to know from Inspector Mr. Subbannah whether he would allow him to go to his house first in case he was going to take him to Tirthahalli to which the Inspector replied that he would gladly give him all facilities. Mr. Garudachar then asked him if he would give him some time for applying to the District Magistrate for bail. The Inspector readily replied that he could have as much time as he wanted, and at Mr. Garudachar's request, sent Jamadar Rudriah to bring Advocates Messrs. Narain Iyengar and Cheluva Iyengar. Mr. Garudachar was given the Inspector's chair in the Office while the Inspector sat on the bench there. When Mr. Narain Iyengar arrived he began to

to talk boisterously and rabidly about his seeing the administration shattered before anything happened to Mr. Garudachar Etc. He worked himself into a fury when the Inspector had to calm him down.

11. Mr. Meccai, who, owing to the absence of the permanent Deputy Commissioner on short leave, was in charge as Deputy Commissioner and District Magistrate was at Head Quarters from the 21st March. Mr. Cheluva Iyengar having seen Mr. Garudachar in the Taluk Police Office at once went to Mr. Meccai at the Travellers' Bungalow to apply for bail. Mr. Meccai took up the case in the fore-noon as soon as he came to the Office. On a representation being made to him that the Police were going to March Mr. Garudachar off to Tirthahalli immediately -which was not a fact as stated above- Mr. Meccai passed an adinterim order asking the Tirthahalli Police Inspector not to take him on, and to appear before the District Magistrate in connection with the bail application. But before he could go the case had been taken up and the Prosecuting Inspector had put in a formal objection to the grant of bail which, however, the District Magistrate granted. When the Tirthahalli Inspector came to the court, a little later, in obedience to the District Magistrate's Order, he was informed that bail had been granted. As soon as the order was received it was carried out. The Inspector proceeded the same night to Bangalore as he had information that Venkategowda had gone there.

12. No indignity of any kind had been shown by the Police, no handcuffs were used nor anything offensive in the least ever transpired. From the spot where the Inspector met Mr. Garudachar to the Taluk Cutchery the distance is under a furlong and the road is a quiet and unfrequented one.

(signed) S. Abdul Wajid.

Shimoga,
2nd April 1916.

Superintendent of Police,
Shimoga District.

Copy
[illegible]
[illegible]

Interest. See
Dy. No. C.S. 76 of 7.4.1916
To Mr. Matthan, Dy.
Commr., Shimoga.
(Re Arrest of Mr. Garu
da Char, Shimoga)

Police
File no. 165-15
St no. 9

Please see sealed cover.

5071
1378

CHIEF COURT OF MYSORE,

BANGALORE.

Dated 1st May 1916.

3/8/16

DIARY No. J 2890

13/5-1916

SECTION Police

165-15

From

N. T. GOPALIENGAR, Esquire, B.A., LL.B.,
Registrar of the Chief Court of Mysore.

To

D. M. NARASINGA RAO, Esquire, B.A., B.L.,
Secretary to the Government of Mysore,
General Department.

S i r,

I am directed to forward for information of the Government a copy of Order in Criminal Petition No. 41 of 1915-16 on the file of this Court.

I have the honour to be,
Sir,
Your most obedient servant,

N. T. Gopaliengar

REGISTRAR.

N.G.

5071
378

CHIEF COURT OF MYSORE,

BANGALORE.

Dated 1st May 1916.

3/8/16

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13/5-1916

SECTION Police

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REGISTRAR.

N.G.

IN THE CHIEF COURT OF MYSORE

Wednesday, the 26th day of April

Before Mr. Justice T. PARAMASIVA Iyer

Criminal Petition No. 41 of 1915-16 prese by Messrs. M.C. Rangiengar and K. Ramaswamy Iyengar, advocates for the petitioner B. Garudachar, accused Criminal Case No. 42 of 1915-16 on the file of sury Assistant Commissioner and First Class Magis of Shimoga, praying that the said case may be trans from the file of that Court to that of any neig District Magistrate for trial.

This petition coming on for hearing upon perusing the records connected with the after hearing the arguments of Messrs. M.C. Rangie K.Ramaswamy Iyengar, advocates for the abovenamed tioner and of Mr. C.S. Doraswamy Iyer, Covernmen for the Covernment, the Court pronounced the fol

O R D E R.

I have perused the records and heard ment Advocate as well as counsel for the peti trial of the case against the petitioner has and it is neither possible nor desirable to at this stage about the strength or weakness for the prosecution. But the case does pre peculiar feature, that the sum of Rs. 50 wh ject matter of the offence under Section 41 Code, is ostensibly remuneration received b tioner for drafting a petition for his cli forth the latter's grievances against the

2. Manja was convicted of house-breaking and theft of cash including the above sum of Rs. 50/- in Criminal Case No. 27 of 1915-16 on the file of Mr. Gopalachar, the Treasury Assistant Commissioner and First Class Magistrate of Shimoga. Manja pleaded not guilty in that case, claimed the 50 rupees as his own, and examined Mr. Garudachar as his witness. To substantiate the present charge against the petitioner the prosecution has, to begin with, to prove and prove afresh, that this sum of 50 rupees was property transferred by theft, and Mr. Gopalachar who tried Manja, disbelieved his plea, and convicted him, has necessarily pre-judged the matter. He may not try the present case and it is to be regretted the learned District Magistrate transferred it from his own file to that of Mr. Gopalachar.

3. In ordinary circumstances it would be sufficient to transfer the case to another local Magistrate of competent jurisdiction. It would however appear that the other First Class Magistrate stationed in Shimoga, Mr. Lakshman Sastry, was invested with first class powers only a few weeks ago and discharged the functions of the Superintendent of Police for 5 days during the conduct of the Police investigation of this case. It is the chief duty of a Superintendent of Police to receive information and issue instructions, oral or written, in regard to all cognizable cases under investigation and Mr. Lakshman Sastry must therefore be held, on principle, to be disqualified from trying a case the Police investigation of which he must be assumed to have partially directed. Mr. Garudachar is moreover a powerful Advocate of 29 years' standing in the little town of Shimoga with a population noted for intelligence and excitability imbibed, according to the local adage, with the sweet but vicacious waters of the [illegible], and having [illegible] to

the peculiar inception of this case and the personality and local surroundings of Mr. Garudachar in Shimoga, the case appears to be a fit one for trial in a calmer atmosphere by an experienced Magistrate of superior jurisdiction. It is accordingly transferred to the District Magistrate of Chickmagalur for trial and disposal.

(Signed) T. Paramaswara Iyer

JUDGE.

True Copy

Registrar.